

S.B.CRIMINAL MISC. BAIL APPLICATION NO.5203/2007

(Bhagwan Das & Anr. vs. State of Rajasthan)

DATE OF ORDER : November 16, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Shrikant for Mr.M.K.Garg, for the petitioners.

Mr.Ashok Upadhyaya, Public Prosecutor for State.

Heard learned counsel for the petitioners as well as the Public Prosecutor for the State. Perused the order impugned and the police investigation diary.

The case as set up by the first informant is that petitioner No.2 entered into an agreement for sale of property for consideration and a sum of Rs.1,00,000/- was received as advance and remaining amount was to be paid at the time of registration of the documents.

Learned counsel for the petitioners submits that it is the first informant, who failed to pay the remaining amount and get the documents executed as per the terms and conditions mentioned in the agreement to sale. A registered notice was served upon the first informant by petitioner No.2 through her counsel on 26.2.2007 asking the first informant to pay the remaining amount of the consideration and get the documents

registered. It appears that despite notice, the first informant failed to pay the remaining amount and get the documents registered and filed the instant FIR.

I have gone through the FIR. In my view, it is purely a civil transaction and the agreement to sale entered between petitioner No.2 and the first informant has not been disputed as also the registered notice served upon the first informant by petitioner No.2 through her counsel asking the first informant to pay the remaining amount, which the first informant failed and has filed the report.

Be that as it may, without commenting on the merit of the case, having regard to the facts and circumstances of the case, I consider it just and proper to grant anticipatory bail to the petitioners.

Accordingly, the bail application filed by the petitioners under section 438 Cr.P.C. is allowed and it is directed that in the event of arrest of petitioners Bhagwan Das s/o Lundi Chand and Smt. Sumitra Devi w/o Bhagwan Das in FIR No.375/2007, P.S. Kotwali, Sri Gangangar, they shall be released on bail for a period till the police concludes the investigation and files the challan provided each of them furnishes a personal bond in the

sum of Rs.10,000/- along with one surety of like amount each to the satisfaction of Investigating Officer to surrender and appear before the trial court on the date of filing of the challan after conclusion of the investigation on the following conditions:-

- (i) That they shall make themselves available for interrogation by a police officer as and when required;
- (ii) That they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and;
- (iii) That they shall not leave India without the previous permission of the Court.

The petitioners shall surrender before the trial court on the date of filing of the challan.

(H.R.PANWAR),J.

m.asif/-